

SAMELS ASSOCIATES

ATTORNEYS AT LAW

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VIA HAND DELIVERY

June 29, 2009

Ms. Wanda Rivera
Regional Hearing Clerk
U.S., Environmental Protection Agency, Region 1
One Congress St., Suite 1100 (RAA)
Boston, MA 02114-2023

Re: In the Matter of Atlantic Union College
Docket Nos. CWA-01-2009-0020; EPCRA-01-2009-0021

Dear Ms. Rivera:

Enclosed for filing please find an original and a copy of the following for filing in the above reference matter:

1. *Third Joint Emergency Motion For Extension Of Time For Respondent To File A Written Request For Hearing And To Answer The Complaint.*

Kindly, bring the Third Emergency Joint Motion for Extension of Time to the attention of LeAnn Jensen, the Acting Regional Judicial Officer. If there are any questions do not hesitate to contact my office.

Your attention to this matter is appreciated.

Sincerely,



Lanta V. Spencer

Enclosures

cc: LeAnn Jensen, Acting Regional Judicial Officer, U.S. EPA
Tonia Bandrowicz, Esq., Senior Enforcement Counsel, U.S. EPA
Albe Simenas, MADEP – BWSC
CDR Wayne Clayborne, First Coast Guard District

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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_____)	
IN THE MATTER OF:)	THIRD JOINT EMERGENCY
)	MOTION FOR EXTENSION OF TIME
)	FOR RESPONDENT TO FILE A
ATLANTIC UNION COLLEGE)	WRITTEN REQUEST FOR HEARING
338 Main Street)	AND TO ANSWER THE COMPLAINT
South Lancaster, MA)	
)	
)	Proceeding to Assess Class II Civil Penalty
)	Under Sections 308 and 311 of the Clean
)	Water Act and a Civil Penalty under
)	Section 312 of the Emergency Planning
)	and Community Right-to-Know Act
)	
)	Docket Nos. CWA-01-2009-0020
Respondent.)	EPCRA-01-2009-0021
_____)	

The parties hereby request pursuant to 40 CFR § 22.7(b) *Extensions of time* that the Presiding Officer extend the time for the respondent to request a hearing and file an Answer to the Complaint or seek a Final Agreement and Consent Order by 14-days.

AUTHORITY

Pursuant to 40 CFR § 22.7(b) Extensions of Time:

“[T]he Presiding Officer may grant an extension of time for filing **any document**: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.”

(Emphasis added)

ARGUMENT

The Presiding Officer should grant the parties’ motion, as there is good cause to extend the time for the respondent to request a hearing and file an Answer to the Complaint or seek a Final Agreement and Consent Order. Atlantic Union College (“the College”), a non-profit religious higher education institution, and Complainant have agreed to a settlement with the EPA. AUC has made arrangements for a Supplemental

Enforcement Program with the Nashua River Watershed Association and Town of Lancaster. The SEP has been approved by the EPA and is described in the attached Consent Decree and Final Order signed by the President of AUC (See Attached). In order to submit the Consent Decree and Final Order for approval it must be executed by the EPA. However, it is unlikely that the EPA will have the opportunity to complete its final review and submit the Consent Decree and Final Order for the Presiding Officer's approval prior to the July 1, 2009 deadline to Answer the complaint. See 40 CFR § 22.7(b).

As the parties have reached a settlement agreement there is good cause to extend the deadline to Answer the Complaint so that the settlement can be finalized and the parties may seek a Final Agreement and Consent Order.

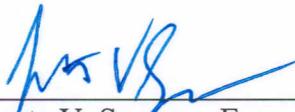
There is no prejudice to either either party by allowing this motion as the Complainant has determined based on on-site inspections that the oil spill of August 4, 2008 requires no further remediation. Further, it will enable the EPA to obtain final appropriate internal approvals for submission of the Consent Decree and Final Order to the Presiding Officer.

Finally, by granting this motion the Presiding Officer will allow for the settlement of this matter and prevent litigation costs to the parties.

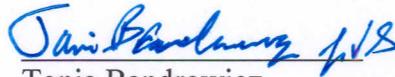
There, is no prejudice to either party as the parties have agreed to the Joint Motion for Extension of Time.

WHEREFORE, the parties respectfully, request that the Presiding Officer grant their Third Emergency Joint Motion For Extension Of Time For Respondent To File A Written Request For Hearing And To Answer The Complaint and extend the deadline for Respondent to request a hearing and Answer the Complaint by 14-days.

Respectfully Submitted,



Lanta V. Spencer, Esq.
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CERTIFICATE OF SERVICE

I certify that the foregoing THIRD EMERGENCY JOINT MOTION FOR EXTENSION OF TIME FOR RESPONDENT TO FILE A WRITTEN REQUEST FOR HEARING AND TO ANSWER THE COMPLAINT and was sent to the following persons, in the manner specified, on the date below:

Original and one copy via hand delivery: Wanda Rivera
Regional Hearing Clerk (RAA)
U.S. EPA, Region 1
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy via hand delivery: LeAnn Jensen,
Acting Regional Judicial Officer
U.S. Environmental Protection Agency,
Region 1
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy via electronic mail and overnight mail: Tonia Bandrowicz, Esq.
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency,
Region 1
One Congress Street, Suite 1100 (SEL)
Boston, MA 02114-2023
Bandrowicz.tonia@epa.gov

Copy via regular mail: Albe Simenas
MADEP - BWSC
One Winter Street
Boston, MA 02108

CDR Wayne Clayborne
First Coast Guard District
Captain John Foster Williams Building
408 Atlantic Avenue
Boston, MA 02210-2209

Dated: June 29, 2009



Lanta V. Spencer, Esq.
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